

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846
MICHIGAN, .
. Detroit, Michigan
. July 22, 2015
Debtor. . 1:43 p.m.
.

HEARING RE. OBJECTION TO CLAIM OF CLAIMANT THOMAS AND
LINDA SIMMONS, CLAIM NO. 302 FILED BY DEBTOR IN POSSESSION
CITY OF DETROIT, MICHIGAN, AND THIRTEENTH OMNIBUS
OBJECTION TO CERTAIN NO BASIS CLAIMS, REGARDING CLAIM
NOS. 474 AND 1097 FILED BY RICHARD HALL
BEFORE THE HONORABLE THOMAS J. TUCKER
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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1 THE CLERK: All rise. Court is back in session.
2 You may be seated. Court will call the case of the City of
3 Detroit, Michigan, Case Number 13-53846.

4 THE COURT: All right. Good afternoon. Let's have
5 appearances by counsel, please.

6 MR. SIMON: Your Honor, good afternoon. John Simon
7 of Foley & Lardner for the city.

8 MS. DOLCOURT: Good afternoon, your Honor. Tamar
9 Dolcourt of Foley & Lardner on behalf of the City of Detroit.

10 THE COURT: All right. Good afternoon. Looks like
11 we have two matters left for hearing today. Why don't we
12 talk first about the city's objection to the claim of Thomas
13 and Linda Simmons?

14 MS. DOLCOURT: Thank you, your Honor. That claim
15 was filed to reclassify from administrative to a general
16 unsecured claim. I think you'll recall at our last hearing
17 we had several claims like that. The Simmons filed a \$25,000
18 claim related to a Detroit school bond, but they had marked
19 it as an administrative claim. And as we had previously
20 discussed at this hearing, administrative claims in Chapter 9
21 are very limited to those particularly related to the
22 administration of the Chapter 9 case.

23 I would also note that the Simmons did not file a
24 response, and we should have filed a CNO, and I apologize for
25 not doing that in advance of the hearing, but we will do that

1 if the Court wishes to do so.

2 THE COURT: It's kind of strange there. The proof
3 of claim by the Simmons that you attached to your objection
4 looks like it says that their claim is both an administrative
5 claim and a secured claim, and they seem to say it's secured
6 by a Detroit school bond, although -- I mean I don't think
7 you mentioned that in your objection, but in your proposed
8 order and in your motion you clearly asked the Court as
9 relief for the Court to reclassify the claim a general
10 unsecured --

11 MS. DOLCOURT: Yes, your Honor.

12 THE COURT: -- claim, and they didn't -- I didn't
13 see any response by them.

14 MS. DOLCOURT: They did not file a response, to our
15 knowledge.

16 THE COURT: Yeah. They're some sort of bondholder
17 apparently?

18 MS. DOLCOURT: They may be. What I am concerned
19 about, your Honor, is that when they said a Detroit school
20 bond, I have to wonder, and we've not been able to ascertain
21 anything in a DPS bond --

22 THE COURT: Yeah, yeah.

23 MS. DOLCOURT: -- because that's a totally different
24 legal entity, so they may not actually have a claim against
25 the city. Our objection at the first cut was simply to take

1 them out of the administrative claims pool because we had an
2 objection deadline for that, and, you know, as we discussed,
3 we're still investigating the claims that were reclassified
4 to determine whether or not there's a further objection as to
5 the basis for liability for the city, and I think that this,
6 if it ultimately is a DPS bond rather than a City of Detroit
7 bond, would be a no liability objection against that claim as
8 well.

9 THE COURT: All right. Well, I will sustain the
10 city's objection, and I will grant the relief you're seeking,
11 which is to enter an order reclassifying the claim as a
12 general unsecured claim both on the merits of the arguments
13 you made in your written objection and also because the
14 creditors have failed to file a timely response to the
15 objection, which was due no later than a week ago today, and
16 obviously they failed to appear today at the hearing. So I
17 would like you to file a certificate of no response, however,
18 and so please do that and also file -- submit the proposed
19 order. I'll make, I think, just probably some nonsubstantive
20 revisions to the order, and then I'll get it entered.

21 MS. DOLCOURT: Thank you, your Honor. I appreciate
22 that.

23 THE COURT: All right. And, of course, I'll waive
24 any further presentment of the order.

25 MS. DOLCOURT: Okay. Thank you, your Honor.

1 THE COURT: Thank you. All right. So this brings
2 us then to the further hearing on the city's objections to
3 the two claims of Richard Hall.

4 MR. SIMON: Yes, your Honor, and Mr. Hall is here --

5 THE COURT: Mr. Hall.

6 MR. SIMON: -- in the courtroom.

7 THE COURT: Come on up to the counsel table, Mr.
8 Hall, if you would. All right. And you are, for the record?

9 MR. HALL: Richard Hall.

10 THE COURT: All right. Good afternoon, Mr. Hall and
11 Mr. Simon. So this is the further hearing. We've had a --
12 we had a prior hearing on the city's objections to these two
13 claims filed by Mr. Hall on -- I think it was May 27th --
14 yeah -- May 27th, and the Court entered an order for
15 further -- some further briefing. The parties did file
16 further briefs, and I reviewed those. I have reviewed those.
17 We'll start with counsel for the city, Mr. Simon. What would
18 you like to say now?

19 MR. SIMON: Your Honor, the primary thing I'd like
20 to just point out is the plan did contain the description of
21 when the stay expired, and there was notice given of that on
22 several occasions to Mr. Hall. He had access to the plan.
23 He had access to the documents. Notice was provided of the
24 plan and disclosure statement. I noted in the documents,
25 your Honor, you might have noticed in the documents that Mr.

1 Hall submitted he was on notice specifically of statute of
2 limitations issues by the counsel that he himself was
3 getting. If you look at those documents he submitted with
4 his proof of claim, you'll see that he has a letter dated
5 December 18th, 2013, from Zamler, Mellen & Shiffman. That
6 was about three months after this case was filed and before
7 the bar date and before a lot of time passed before the
8 effective date of the plan. So back in December 18th, 2013,
9 he has a letter from Zamler, Mellen & Shiffman strenuously
10 and repeatedly stating they wouldn't be representing Mr. Hall
11 in any claim against the City of Detroit. And the letter
12 expressly stated, quote, "There are certain time limits on
13 statutes of limitations which when they expire could prevent
14 you from ever filing a claim or getting any money from the
15 City of Detroit or any responsible party. Therefore, you
16 should hire a lawyer immediately if you wish to pursue this
17 claim," end quote. So just to point out beyond the notice
18 that Mr. Hall --

19 THE COURT: Where exactly is that in the record?

20 MR. SIMON: Your Honor, that is --

21 THE COURT: Is that an exhibit to your reply brief
22 in support of your 13th objection or where is that?

23 MR. SIMON: Yes, your Honor, I believe it was, and I
24 can confirm that for you in one second.

25 THE COURT: All right.

1 MR. SIMON: That is in an exhibit to our reply
2 brief, which is just the proof of claim. It was Exhibit 1 to
3 our reply in support of the city's objection to Claim Number
4 474 filed by Richard Hall. It's at the end of that exhibit.

5 THE COURT: Just a minute. Your reply is Docket
6 9873, I think; correct?

7 MR. SIMON: That's correct.

8 THE COURT: All right. Hold on. Okay. So where in
9 this 90-page exhibit is that letter you just referred to?

10 MR. SIMON: It's the last page in my binder, your
11 Honor.

12 THE COURT: Well, it looks like it is. I'm looking
13 at the last page of the exhibit. Looks like that's where it
14 is.

15 MR. SIMON: Yes.

16 THE COURT: All right.

17 MR. SIMON: Exactly.

18 THE COURT: Okay. So that says what you read it
19 said, but it didn't otherwise tell Mr. Hall when the statute
20 of limitations expired on any claim; right?

21 MR. SIMON: Yes, your Honor, and there's no
22 requirement in the Code --

23 THE COURT: Yeah.

24 MR. SIMON: -- to do so. And obviously they're
25 different in every case, and statutes in every case are

1 things that plaintiffs live by and have to abide by without
2 necessarily knowing when they are. It's by their nature.

3 THE COURT: I know. I understand.

4 MR. SIMON: Yes, yes.

5 THE COURT: This is a letter from Mr. Hall's counsel
6 or former counsel.

7 MR. SIMON: That's correct, your Honor, so I just
8 want to point out that those -- all that notice was given.
9 He had all that --

10 THE COURT: Yeah.

11 MR. SIMON: -- notice of the issues and of the
12 expiration of the stay. And when the effective date of the
13 plan came and went, he got notice of that as well. And then
14 in terms of your questions on point, your question three as
15 to whether, if the 30-day period of 108(c)(2) began to run as
16 of the effective date, was Mr. Hall precluded by the
17 discharge injunction and the provisions of the plan from
18 filing suit, and what's the impact of that on his claims, we
19 provided some case law, your Honor, that I think is
20 illustrative and enlightening on those issues that a proof of
21 claim, you know, per -- per the Rhodes case, the filing of a
22 proof of claim is not sufficient to meet a statute of
23 limitations, and the complaint has to be filed by the end of
24 the 30-day extended period under 108(c)(2). That was a
25 personal injury claimant like in this case.

1 THE COURT: Well, the Rhodes case didn't deal with
2 the issue that the WorldCom case did.

3 MR. SIMON: The WorldCom case did squarely deal with
4 that issue.

5 THE COURT: And the Sixth Circuit held -- and you
6 cited this in your papers that the Sixth Circuit has held
7 that filing a proof of claim is not the equivalent of a
8 complaint, the filing of a complaint, for statute of
9 limitations purposes.

10 MR. SIMON: That's correct, your Honor.

11 THE COURT: Right. Okay. So the WorldCom case is
12 the one -- of the cases you've cited, it looked like that's
13 the only one that deals directly with this issue of, okay,
14 108(c)(2), that time -- that tolling time expires, but if
15 it's replaced by a discharge injunction or an injunction that
16 nominally precludes the creditor from then filing an action
17 or taking the action, what's the impact of that; right?

18 MR. SIMON: Yeah. The impact of that under the
19 WorldCom reasoning by the chief judge of the Bankruptcy Court
20 for the Southern District of New York was that then the
21 claimant is required to file for relief from the discharge
22 injunction in order to get the ability to make its filing
23 required by 108(c)(2). No. That's the only case law.

24 THE COURT: Is there any other case that says that?

25 MR. SIMON: There's no other case contrary to it

1 that we found.

2 THE COURT: Is this the only case you could find on
3 this point?

4 MR. SIMON: Yeah. That's correct. We couldn't find
5 any other cases on point.

6 THE COURT: That's it?

7 MR. SIMON: Yes. That's it. And I have to note for
8 the record, your Honor -- I have to note because I did some
9 further looking at that myself, and there was a follow-up
10 opinion in the same case that had a different result because
11 of -- and it wasn't -- it was not a direct -- it did not
12 directly refute its own logic in this opinion that was cited,
13 but there was a conclusion that there was a factual
14 misunderstanding, and the lien that was sought to be enforced
15 in that WorldCom case actually was terminated as of the
16 effective date, so it was like a modification of the opinion.
17 I don't think it changed the Court's ruling in that opinion
18 that was cited here, but I just wanted to point that out for
19 the record, but that is the only case that discusses this
20 issue that we could find. And it makes sense because in
21 every case, your Honor -- in every case if you look at the
22 plans from GM and if you look at the plans from LightSquared
23 recently, if you look at the plans from Rebel recently, this
24 is what happens. There's a discharge injunction. Nothing
25 specifically addresses 108. Without this kind of reasoning,

1 you'd have a statute of limitations continue indefinitely,
2 which could never be the case.

3 THE COURT: Well, unless the plan that's confirmed
4 says notwithstanding the discharge injunction, anybody that
5 needs to file a complaint to avoid a statute of limitations
6 running may do so and must do so no later than 30 days after
7 the effective date or whatever, you know, the 108(c)(2)
8 expiration is. I mean plans can say that, but this one
9 didn't; right?

10 MR. SIMON: This one didn't, and I couldn't find
11 other ones in some big cases that did. I think this is
12 routine practice, and none of them did. That said, they
13 could say that, but then again nothing ever sets forth --
14 again, nothing ever sets forth the statute of limitations
15 date for any individual plaintiff. Nothing expressly
16 overruled and said, you know, notwithstanding 108, no one can
17 file because there's a discharge injunction. It certainly
18 was the intention of the city here that if people brought
19 claims pursuant to 108, they would not use the discharge
20 injunction against them and that we did go back to the city
21 and discuss with the city to get that clarity. So nothing in
22 the plan expressly said that 108 did not apply.

23 THE COURT: Now, are you saying then that -- well,
24 is it the case that if Mr. Hall in early January 2015 had
25 filed a motion -- this was, you know, after the effective

1 date of the plan, December 10, 2014 -- filed a motion asking
2 for relief from the discharge injunction to permit him to
3 file a complaint in, you know, whatever nonbankruptcy court
4 you wanted to name on these claims against the city that the
5 city would not have opposed that?

6 MR. SIMON: That's what we've been told by the city,
7 your Honor.

8 THE COURT: And has any -- did anybody else file any
9 such a motion in this case?

10 MR. SIMON: Not that I know of.

11 THE COURT: Okay. So does this holding make sense,
12 WorldCom? I want to explore that a little bit more with you.

13 MR. SIMON: Um-hmm.

14 THE COURT: Does it make sense? There's nothing --
15 there's no reason the plan can't explicitly say already, in
16 effect, give somebody permission, notwithstanding the
17 discharge injunction, to file a complaint if necessary to
18 preserve a statute of limitations by the end of the 108(c)(2)
19 period. This plan didn't do that. It could have but didn't.
20 There's nothing else -- there's nothing in the plan in this
21 case that was confirmed, is there, that even suggests that a
22 party could obtain such relief if they asked for it, is
23 there?

24 MR. SIMON: There was -- excuse me, your Honor. In
25 Article VI.3, your Honor, there's discussion of the

1 possibility of making a filing for relief after the effective
2 date, after the discharge injunction, in connection with some
3 of the ADR procedures.

4 THE COURT: Where is this?

5 MR. SIMON: Article VI.3.

6 THE COURT: You got a page number for me? I can
7 look it up, but --

8 MR. SIMON: I think it's page 75.

9 THE COURT: All right. Hold on. By the way, for
10 future reference, it would be -- it's very helpful if you
11 would -- when you cite a section of the confirmed plan, if
12 you also cite a page number in the plan.

13 MR. SIMON: Will do. Thank you.

14 THE COURT: That's how I find stuff, by the page
15 number.

16 MR. SIMON: Thank you, your Honor. Will do.

17 THE COURT: And I have to go to the table of
18 contents and then go find it. It's just -- it would help me
19 if you would do that. Nobody ever seems to do that in this
20 case so far.

21 MR. SIMON: Yeah. We definitely will keep that in
22 mind.

23 THE COURT: Anyway, Article VI.3 I don't think -- if
24 you did it, I'm sorry, but I don't remember that.

25 MR. SIMON: It does talk about the possibility under

1 certain circumstances at the end of the first paragraph.

2 THE COURT: I'm sorry. Page 75 is not right.

3 MR. SIMON: Page 75 of 82 entered --

4 THE COURT: That must be the order confirming plan.

5 MR. SIMON: -- October 22nd, 2014. It's Docket
6 Number 8045. Okay. Page 68 of the plan, your Honor --

7 THE COURT: All right.

8 MR. SIMON: -- to be clear. Page 68 of the plan.

9 It was on the docket PDF 75 of 82, but it's page 68 of the
10 plan.

11 THE COURT: All right. 68. Hold on. So it's
12 Article VI.A. What number?

13 MR. SIMON: Three.

14 THE COURT: Three, 68.

15 MR. SIMON: Tort claims.

16 THE COURT: VI.A.3, page 68. Okay. What about that
17 section?

18 MR. SIMON: You asked whether there's a reference in
19 the plan to the possibility of anyone filing for relief from
20 the discharge injunction, and this is an example in the plan
21 of that.

22 THE COURT: Well --

23 MR. SIMON: You asked are there any references to
24 that possibly happening, and this is where that's referenced
25 at the end of the first paragraph of 3 there.

1 THE COURT: Okay. Hold on. Okay. So how does
2 this -- I've read this first paragraph of this Section 3.
3 How does this relate to Mr. Hall's claims and the February 4,
4 2015, stay modification --

5 MR. SIMON: The only way it relates --

6 THE COURT: Excuse me.

7 MR. SIMON: I'm sorry.

8 THE COURT: Let me finish.

9 MR. SIMON: Yes.

10 THE COURT: -- stay modification notices that the
11 city filed and served on Mr. Hall regarding his two claims?
12 And you know what I'm talking about --

13 MR. SIMON: Yes.

14 THE COURT: -- right? Go ahead.

15 MR. SIMON: I don't think it does necessarily
16 relate. I don't think this is necessary for the conclusion
17 that the Code compels because the city, when it filed its
18 stay modification notice as to Mr. Hall, it just did that as
19 a matter of routine. It didn't do that with specific --
20 necessarily specific intent to change the interpretation of
21 108 or the impact 108 would have in this case.

22 THE COURT: Well, I mean you argued in your papers
23 that the stay modification notices don't really matter.
24 They're almost nullities because by the time these were
25 served, the city is saying, Mr. Hall's statute of limitations

1 period had expired and he could do nothing further that would
2 be of any good or effectiveness by filing a complaint at that
3 point.

4 MR. SIMON: That's correct, your Honor. That's
5 absolutely correct. And, again, I'm trying to explain that
6 that was filed as an administrative matter. The stay
7 modification notice was filed administratively, and really
8 Mr. Hall's claim had already been subject to the statute of
9 limitations passing in January before that was even filed.
10 So, again, I wasn't raising this page 68 description for any
11 reason other than to answer your question about whether
12 anything in the plan referred to the possibility of getting
13 relief from the discharge injunction, and all this does, by
14 the way, this just sets an outside date for a motion to get
15 relief from the discharge injunction. It doesn't say that
16 someone couldn't do it earlier. And, in fact, again, the
17 only case that's interpreted this is WorldCom, and it makes
18 it clear that that relief is something that can be sought.
19 Mr. Hall should have had an attorney. He should have
20 understood his rights better, unfortunately, and he didn't,
21 and this is how plans work. They state almost exactly the
22 type of language that is stated in this plan with respect to
23 injunctions and discharge, and nothing changes. It doesn't
24 say that 108 no longer applies, but certainly the right
25 course and the safe course is to make sure your claims are

1 preserved before the effectiveness of the plan or that 30-day
2 window passes.

3 THE COURT: Let me just test an alternative view by
4 asking you a question or two, and I'm not ruling this way or
5 anything at this point. I'm just asking this question just
6 to hear your response. Why isn't the city estopped by the
7 plan it proposed and obtained confirmation of, which included
8 the discharge injunction? Why isn't it estopped from arguing
9 that the statute of limitations in this instance bars Mr.
10 Hall's claim because the city included in its plan a
11 discharge injunction that barred Mr. Hall from filing a
12 complaint within that 30-day window after notice and the
13 termination of the automatic stay, and if that's the case, if
14 the city is so estopped, then what do we do about it? That's
15 part two. I mean the what do we do about it question really
16 is what's -- what do we do here with respect to the statute
17 of limitations issue and the liquidation of Mr. Hall's
18 claims? Does the Court, for example, enter an order granting
19 Mr. Hall a relief from the discharge injunction to permit him
20 to file a complaint now in an appropriate nonbankruptcy
21 court -- two complaints, one for each claim, and require him
22 to do so by a specific date, date certain? So what do you
23 want to say about these questions?

24 MR. SIMON: Yeah. I don't think the city is
25 estopped because there was no intention to avoid 108. That

1 was not the intention of what was done here, as we have
2 stated, and nothing expressly says that 108 doesn't apply.
3 Nothing in the plan says that. The city never says that 108
4 is trumped by the discharge injunction. The Code says all
5 kinds of things that are --

6 THE COURT: I don't follow what you just said. I'm
7 not suggesting by my question that the ruling would be
8 anything about the plan depriving the debtor of his -- or the
9 creditor of his rights under Section 108.

10 MR. SIMON: I'm sorry. I thought --

11 THE COURT: Rather, it is the estoppel -- the basis
12 for the estoppel would be something like this. The city put
13 in a plan, proposed to the Court a plan and obtained
14 confirmation of a plan that made it impossible for the
15 debtor -- for the creditor to avoid losing his claim under
16 the statute of limitations because the automatic stay expired
17 on the effective date and also on the effective date the
18 discharge injunction barred Mr. Hall from filing a complaint
19 on either of his claims in any non -- any court and made it
20 impossible for him to avoid the running of the statute of
21 limitations. Now, part of your answer to that, I suppose,
22 is, well, he could have asked for -- he could have filed a
23 motion for relief from the discharge injunction at any point
24 from after the effective date and before the 30-day window of
25 108(c)(2) closed, but he didn't do that, and it was incumbent

1 on him to do that. That seems to be kind of the theme in the
2 WorldCom case.

3 MR. SIMON: Yes, your Honor.

4 THE COURT: Is that a good answer to the estoppel
5 argument?

6 MR. SIMON: I think it is, your Honor, and more than
7 that, no one has even raised estoppel as an issue here. I
8 mean --

9 THE COURT: Well, Mr. Hall is pro se. He doesn't
10 know the law. He doesn't know this stuff.

11 MR. SIMON: Well, but it's -- no one has raised that
12 108 doesn't apply, you know. 108 does apply. The city has
13 agreed that 108 applies; that that's the time period that
14 should have governed. Nothing in the plan -- and I would say
15 we didn't estop -- there's no estoppel of the city because
16 nothing in the plan says that 108 doesn't apply.

17 THE COURT: Well, I don't understand your wording,
18 108 -- nobody is saying 108 doesn't apply.

19 MR. SIMON: Nothing says --

20 THE COURT: I don't understand what you mean by that
21 because all 108 does is extend a deadline.

22 MR. SIMON: Right. And nowhere in the plan does it
23 say that the discharge injunction trumps 108. That's what
24 I'm trying to say. I'm sorry if it's not clear. Nowhere in
25 the plan does it say that, that a creditor has no rights

1 under Section 108 because of the discharge injunction.

2 THE COURT: The wording of the discharge injunction
3 in the plan is broad and prohibited Mr. Hall from filing a
4 complaint on either of his claims from the effective date
5 forward, didn't it?

6 MR. SIMON: I think the real question is --

7 THE COURT: Literally, didn't it do that?

8 MR. SIMON: I think if he had a attorney, he'd seek
9 a motion to get relief from the discharge injunction, and I
10 would ask the question of whether Mr. Hall knew what the
11 statute of limitations was for his claims.

12 THE COURT: In other words, he would have to file a
13 motion to get relief from the terms of the confirmed plan
14 that the city proposed and fought for and obtained
15 confirmation of. He would have to do that and succeed at
16 that in order to avoid being deprived of his claim by the
17 statute of limitations. I mean is that what you're saying,
18 in effect?

19 MR. SIMON: That's one approach, yes.

20 THE COURT: Pardon?

21 MR. SIMON: He could have --

22 THE COURT: Yeah.

23 MR. SIMON: He could have done that. He could have
24 filed for relief from the stay during the case to bring his
25 claim then as well, but, you know, yes, he could have --

1 THE COURT: Yeah. Sure, sure, yes.

2 MR. SIMON: Right.

3 THE COURT: Yeah.

4 MR. SIMON: So at some time before that period --

5 THE COURT: And the city, for that matter, could
6 have filed an ADR notice before the effective date of the
7 plan, too, right --

8 MR. SIMON: The city could have, but --

9 THE COURT: -- on his claim. The city didn't have
10 to.

11 MR. SIMON: -- the city had a lot going on and
12 didn't want to be --

13 THE COURT: Sure.

14 MR. SIMON: -- engaging in litigation.

15 THE COURT: The city didn't have to do it. It could
16 have. Right, yeah.

17 MR. SIMON: Yes.

18 THE COURT: Okay. There was no duty on Mr. Hall to
19 seek relief from stay before the stay terminated, and
20 where -- what gives rise to him having a duty to have to
21 affirmatively move the Court for relief from the confirmed
22 plan?

23 MR. SIMON: Well, your Honor, I would say he had no
24 duty to file a lawsuit either, but the fact that he's bound
25 by a statute of limitations, just like he's bound by the

1 provisions of the Bankruptcy Code, just like he's bound by
2 the plan, they all tie together to the bundle of rights that
3 he had, and so I would say -- I would disagree that he didn't
4 have an obligation; that he didn't have a need to make those
5 kinds of filings. I think he absolutely did have that need
6 just like people don't say you must file a proof of claim.
7 They say if you want to file a proof of claim, here's the
8 deadline. Here's how you do it; right? The Code says what
9 it says. The plan provided notice.

10 THE COURT: But those people aren't enjoined from
11 filing a proof of claim.

12 MR. SIMON: I'm sorry.

13 THE COURT: Those people aren't -- nobody is
14 enjoined from filing a proof of claim -- against filing a
15 proof of claim --

16 MR. SIMON: But he wasn't enjoined --

17 THE COURT: -- by a confirmed plan or a court order
18 confirming a plan.

19 MR. SIMON: Well, your Honor, the automatic stay
20 works the same way throughout an entire case; right?

21 THE COURT: Yeah.

22 MR. SIMON: It just says you can't take these
23 actions. It doesn't say you must seek relief anywhere. It's
24 just your rights you have, and the rights are limited by law
25 for a reason because we have to have cases get to conclusion.

1 We can't have a statute of limitations, you know, extending
2 indefinitely; right? So this is the balance the Code tries
3 to strike, and the city does not think it's estopped from
4 taking that position because of the language in the plan
5 because it didn't say that he couldn't seek relief. It
6 didn't say he couldn't seek relief from the discharge
7 injunction in order to make the filing that he had to make in
8 order to meet the deadlines. I think he wasn't aware of the
9 deadlines to begin with, and I think that's part of the issue
10 here, a bigger part of the issue. I also think if that kind
11 of reasoning --

12 THE COURT: Let me ask you about the provision in --
13 on page 68 of the plan that we talked about a little bit ago,
14 a question about that, again, Section VI.A.3 of the plan.
15 Now, the last -- or that first paragraph, the last sentence
16 says in substance that the city doesn't serve a notice,
17 notice informing the holder that the city has exercised the
18 option described above, upon the holder of a tort claim by
19 the claims objection bar date. That originally was June of
20 2015. It's been extended to, what, sometime in December.

21 MR. SIMON: This December.

22 THE COURT: Yeah. If the city doesn't do it by that
23 time, then the creditor may file a motion within 30 days
24 after the claims objection bar date seeking relief from the
25 discharge injunction in order to liquidate and determine it's

1 the claim, so that last sentence seems to only give the
2 holder of a tort claim the right to file such a motion after
3 the claims objection bar date has passed --

4 MR. SIMON: That's what that --

5 THE COURT: -- not sooner.

6 MR. SIMON: That's what that says.

7 THE COURT: Yes.

8 MR. SIMON: But it doesn't say that they can't file
9 one before that, and that's what people would do in this
10 circumstance.

11 THE COURT: All right. Now, is there -- I may have
12 already asked you this. There's no hint in the confirmed
13 plan anywhere, is there, or the order confirming plan that a
14 creditor could seek relief from the discharge injunction for
15 any reason at any time other than what this VI.A.3 says? Is
16 that the only place?

17 MR. SIMON: I believe this is the only place.

18 THE COURT: Okay. All right. Well, I've asked you
19 about estoppel. Is there a -- you know, estoppel is one
20 possible theory that just came to mind. I am not saying that
21 the doctrine of estoppel necessarily fits this situation or
22 would, but what about equitable tolling, equitable tolling of
23 the statute of limitations period because of this
24 situation -- that is, that he's -- the creditor was barred by
25 the discharge injunction or prohibited by the discharge

1 injunction from the effective date forward of filing a
2 complaint?

3 MR. SIMON: Your Honor, I would say creditors had a
4 lot of notice in this case. Okay. This case was nationally
5 publicized. It's obviously one -- the biggest case that's
6 ever happened here. There was notice all the time that this
7 case was happening. Notice of the hearings in the case is
8 given to creditors, notices of opportunities to get even more
9 notice, participate. The time for those kinds of objections
10 to the process that was set up and approved by Judge Rhodes
11 and all the notices that were approved in connection with the
12 plan, that was really way back when in connection with
13 confirmation and effectiveness of the plan, not after that,
14 so I think the equities factor -- and on top --

15 THE COURT: I don't know what you just -- how what
16 you just said has anything to do with my question.

17 MR. SIMON: Well, I don't think there's an equitable
18 basis for tolling, an equitable tolling, when the creditor
19 has had so much notice of the plan provisions --

20 THE COURT: The basis --

21 MR. SIMON: -- of the case.

22 THE COURT: The only basis would be that he -- that
23 the plan confirmed by the Court and which is binding on the
24 creditor enjoined the creditor from filing a complaint as of
25 the effective date, as of the very day when the stay that had

1 previously prevented him from filing one expired or was
2 terminated. That would be the basis. And so I don't know if
3 this is a document that would fit either, but, you know, I
4 throw it out there to ask you because, you know, obviously,
5 you know, we're kind of -- we're kind of moving along in the
6 analytical process here with each hearing and each -- I've
7 already had you guys brief -- file supplemental briefs, and,
8 you know, we just -- we can't keep going and going and going
9 on this. I understand that. I got to decide this thing, but
10 I want to -- I want to be fair to both sides, and -- but, you
11 know, there's something -- I mean as you can tell from the --
12 what I said at the May 27 hearing, I'm just -- I'm having
13 trouble getting comfortable with this concept that -- what's
14 happening here under the city's view of how this should work.

15 MR. SIMON: Your Honor, I think what you're not
16 comfortable with is that the plan didn't say a certain date
17 under 108. Okay. And it just didn't. It didn't say it. I
18 don't think there's anything more we can do about that, the
19 fact that it did not, but it --

20 THE COURT: See, I don't think that's it --

21 MR. SIMON: Yeah.

22 THE COURT: -- you know. I don't think it's that.
23 What it is is the plan didn't -- at least nothing that the
24 plan says left any room for a creditor like Mr. Hall to file
25 his complaint before the statute of limitations ran under

1 your theory because he was enjoined by the discharge
2 injunction from the effective date forward from doing so.
3 That's what makes me uncomfortable about your position here,
4 I think.

5 MR. SIMON: But, your Honor, the Code isn't known to
6 claimants generally; right? The Code is not understood by
7 everyone. It's understood by attorneys. Mr. Hall should
8 have probably had an attorney in this situation, and he was
9 told by other attorneys he should get an attorney. He didn't
10 do that. People can misunderstand a lot of things about
11 bankruptcy cases without appropriate legal guidance, but it's
12 not an excuse. The Code says what it says. It says that he
13 had until 30 days after the effective date to file his claim,
14 and he did not. And nowhere in the record does it say that
15 he was misled by the plan, that he didn't know, and meanwhile
16 when we're talking about the equities of the situation, if --

17 THE COURT: No, no. The concern I have is that he
18 was prohibited by the plan from doing what he needed to do to
19 avoid this running of the statute of limitations.

20 MR. SIMON: He could have sought relief from the
21 provisions of the plan, your Honor. That's what the
22 appropriate guidance was.

23 THE COURT: Okay. Come back to that WorldCom
24 answer.

25 MR. SIMON: Yeah, and that is the -- and WorldCom

1 says no estoppel, and WorldCom --

2 THE COURT: Well, estoppel was in a different
3 context. It was a different argument; right? I think it
4 was. It was an argument a little later in the opinion of
5 WorldCom, I think, talking about estoppel where the creditor
6 was relying on something that an attorney for the debtor said
7 to them about their claim, I think. That was estoppel in
8 that case, wasn't it? At least the section on this issue, it
9 seemed like the Court didn't talk about estoppel at all.
10 Perhaps nobody made the argument -- the estoppel argument in
11 that context, or did I miss that? It was a long opinion in
12 WorldCom. Did I miss something there?

13 MR. SIMON: It's a little unclear in the opinion,
14 your Honor, as to which part of the debtor's actions were the
15 cause of the estoppel argument. They seem to argue that just
16 not under -- the creditor seemed to argue that being confused
17 about what the plan meant and getting some kind of material
18 misrepresentation were the basis for the estoppel argument
19 that the creditor had in that case. In any event, that case
20 does talk about the elements of equitable estoppel, material
21 misrepresentation, reasonable reliance, and provable damages,
22 and in this case there's just -- there was no proof that
23 there's been reliance on that, on the contents of the plan.

24 THE COURT: Let me, if I could for a minute, go to
25 my second --

1 MR. SIMON: Certainly.

2 THE COURT: -- question that I asked a minute ago of
3 the two. The first was is there an estoppel here. Second
4 is -- the question was if there is, what do we do about it?
5 And I'm not trying to telegraph that I'm going to rule that
6 there's an estoppel or equitable tolling. I'm not there. I
7 just want to talk about the second piece of this while you're
8 here, though, at this hearing, and that is what do you do
9 about this? Is the appropriate remedy for the Court to say,
10 all right, Mr. Hall now may and must by "X" date file a
11 complaint in an appropriate nonbankruptcy court on each of
12 his claims --

13 MR. SIMON: Yes, your Honor.

14 THE COURT: -- for the purpose of liquidating the
15 claim --

16 MR. SIMON: Right.

17 THE COURT: -- in an appropriate nonbankruptcy
18 court?

19 MR. SIMON: Yes. I think that -- well, certainly I
20 think the answer is not that there's no statute of
21 limitations ever, so there has to be a statute of
22 limitations. I think it should be prompt if this is the road
23 that the Court went down. I think we need to clarify now
24 what Mr. Hall's -- you know, his position -- his position
25 seems to be -- and we've had countless conversations, the

1 office has, with Mr. Hall about his position, and what I
2 think part of his position is is that he didn't somehow have
3 enough information to file a lawsuit, so he's not complaining
4 about any of the estoppel or anything like that. He's not
5 complaining about the contents of the plan necessarily. He
6 was complaining about not getting information that he said
7 for some reason he needed to file a litigation, and so I
8 think we'd want to have a date. I don't think there's any
9 kind of obligation on the city to do anything else. I think
10 he's got the facts he has, which he submitted, you know, 90
11 pages with his claim. I think he has to file a lawsuit by a
12 certain date under the second path you proposed -- that's how
13 I think that would go in -- 30 to 60 days let's say, and I
14 think that -- in considering that, I think we need to -- we
15 need to be careful that we don't know what other claimants
16 there might be, and we wouldn't want to open the floodgates.

17 THE COURT: That was sort of my next question.

18 MR. SIMON: Okay.

19 THE COURT: What are we talking about here? I think
20 Kim Spicer might be in this -- might be in this camp. The
21 objection to his claim by the Detroit Water and Sewer
22 Department was adjourned at the request of the department to
23 September 16, but I think, as I recall, that objection to
24 claim has some of these issues, not necessarily the same
25 ones, but --

1 MR. SIMON: I think it differs in some material
2 respects as to when the statute passed, but --

3 THE COURT: In his case, there was an ADR. There
4 was a notice -- ADR notice filed.

5 MR. SIMON: There was a notice before the effective
6 date.

7 THE COURT: Right.

8 MR. SIMON: Well before.

9 THE COURT: Yeah.

10 MR. SIMON: I think it was a different --

11 THE COURT: Yeah, yeah.

12 MR. SIMON: -- situation.

13 THE COURT: Yeah.

14 MR. SIMON: But there might be other claimants out
15 there, and now we'd be opening the door to that.

16 THE COURT: Are there?

17 MR. SIMON: I have no idea. I don't know, and I
18 don't think that's fair to put on the city.

19 THE COURT: Are there any other claims that you --
20 other than Kim Spicer that you object to to date on statute
21 of limitations grounds?

22 MR. SIMON: No.

23 MS. DOLCOURT: Your Honor, there are approximately
24 1,200 litigation claims in the case, and the city is in the
25 process of investigating all of them, so it is very possible

1 that this issue will arise. We don't know that it's arisen
2 yet other than with respect to Mr. Hall's claims and
3 potentially with Mr. Spicer's claims, but they're still
4 reviewing, like I said, the 1,200 claims, so it's very
5 possible that that may arise again.

6 THE COURT: Okay. So, Mr. Simon, you don't want me
7 to open a can of worms here.

8 MR. SIMON: I think given -- given the circumstances
9 and given -- you know, given the case law that exists, you
10 know, and given how the Code works and given how plans work,
11 I really don't see an alternative that is just or practical
12 in terms of opening the can of worms. I just -- but if you
13 had to, if the can has to be opened, then it's a short period
14 to file some action. I mean that's about it. But I think
15 it's clear what the Code says, and the plan never says that
16 that doesn't apply. And no one was misled by that, and we
17 haven't heard of anything like that. And I don't see a
18 reason to not follow the case law that's been established and
19 just follow the Code for what it says and that people have to
20 file motions for relief if there's a discharge injunction,
21 but they need to file by the 30-day tail of 108(c) that they
22 have to do so.

23 THE COURT: All right. Anything else you'd like to
24 say before we give Mr. Hall an opportunity to speak?

25 MR. SIMON: No, not at this time, your Honor.

1 THE COURT: Mr. Hall, what would you like to say
2 about these -- further about these objections to your --
3 objection to your claims if you want to say anything? Get to
4 the microphone, though, if you want to say anything so it'll
5 be on the record. Go ahead.

6 MR. HALL: Not at this time. I think you already
7 stated things that the process should take as far as moving
8 on. I'm just waiting on your --

9 THE COURT: You have not filed --

10 MR. HALL: -- decision because you stated both
11 sides.

12 THE COURT: Excuse me. You have not filed a lawsuit
13 in any court against the city on either of these claims,
14 right, so far?

15 MR. HALL: No. Like you said, I didn't have a
16 chance. I wasn't -- in my past, my statutes of limitations
17 had expired.

18 THE COURT: I'm not saying why didn't you. I'm just
19 saying you haven't.

20 MR. HALL: No, I have not, sir.

21 THE COURT: As we stand here today, you've never --
22 you haven't done it yet.

23 MR. HALL: No, I have not, sir.

24 THE COURT: Okay.

25 MR. HALL: I mean your Honor.

1 THE COURT: All right. Well, did you want to say
2 anything else about this?

3 MR. HALL: Yes, I would. I feel that I have the
4 option to or the right to file suit as an adversary hearing,
5 but I mean I couldn't file a suit because I didn't have any
6 evidence. I need evidence to file a lawsuit, and when I was
7 in the process, I was not given any information because of
8 the emergency manager. They was not responding to anything
9 so stated that I need to file a proof of claim, which I did,
10 to secure any complaints or whatever that I wanted to in the
11 future have a conference on, so that's it. Oh, excuse me.
12 The tolling. The tolling was -- should be from the time of
13 the bankruptcy was confirmed, so, like he said, like 30 to 60
14 days. I still have time to file. And the relief I couldn't
15 do -- ask for relief because I didn't ever have a lawsuit, so
16 I couldn't ask for it. I was told that relief would have
17 gave me back until where I already started a lawsuit, which I
18 didn't, which I couldn't, which was not correct, so I think
19 you said it. Both sides have arguments, but I'm just waiting
20 on a decision. That's all I have to say.

21 THE COURT: All right. Thank you. Anything further
22 in reply, Mr. Simon?

23 MR. SIMON: No, your Honor. Actually, your Honor,
24 if I could just say one thing further --

25 THE COURT: Yeah. All right.

1 MR. SIMON: -- briefly. Just to get back to the
2 point I was making about the time for objections to the plan,
3 the time, there was a time for objecting to the fact that the
4 plan had a discharge injunction and that it did or did not
5 make confusing the situation for a creditor that held a claim
6 that may have been barred by a statute of limitations that
7 passed during the case. That's a plan objection. Okay.
8 It's something that would have, should have happened back at
9 that time, not now to revisit history and change how the plan
10 works. That's it. Thanks, your Honor.

11 THE COURT: All right. Thank you. Thank you both.
12 I'm going to rule on some of the issues that have been raised
13 in the two hearings and in the papers filed by the parties
14 concerning the city's objection to the two claims filed by
15 Richard Hall in the bankruptcy case -- in this bankruptcy
16 case, Claim Number 474 and Claim Number 1097, and these are
17 the -- city's objections, just for the record, again, are
18 part of the city's 13th omnibus objection to claims.

19 It's undisputed -- and I do agree with the city that
20 with respect to Claim Number 97, which is a claim that
21 asserts the claim of false arrest and various other related-
22 type claims that are Section 1983 claims, that the -- under
23 applicable case law, the Michigan three-year statute of
24 limitations is borrowed and applied to such an action here
25 and to such claims by Mr. Hall such that since the alleged

1 incident occurred on October 29, 2011, the three-year period
2 would have run on October 28, 2014, but for the filing of the
3 city's bankruptcy case and Section 108(c)(2) of the
4 Bankruptcy Code, which we'll talk about a little bit more in
5 a minute.

6 With respect to Claim Number 474, a claim of injury
7 asserted by Mr. Hall, Mr. Hall's claim there is -- as can be
8 gleaned from his proof of claim, is that he on June 28, 2012,
9 was walking over a steam grate on a city in Detroit and was
10 injured, burned and suffered injuries, and it's a claim in
11 the nature of a highway defect type claim which -- for which,
12 under Michigan law, Michigan Compiled Laws, Section 691.1411,
13 there is a two-year limitations period, which means that
14 normally the statute of limitations for such a claim by
15 Mr. Hall against the city would have expired at the latest on
16 June 28, 2014, which, again, was a date after -- well after
17 the city had filed its Chapter 9 bankruptcy case and the
18 automatic stay had applied and Section 108(c)(2) applied.

19 When the city filed its bankruptcy case, of course,
20 the automatic stay under Section 362(a) and Section 922 of
21 the Bankruptcy Code arose, and those -- the automatic stay
22 under each of those sections precluded Mr. Hall from filing a
23 complaint in any court on either of his claims against the
24 city. At the same time and because of the automatic stay and
25 related to the automatic stay, under Section 108(c)(2) of the

1 Bankruptcy Code, the statute of limitations for each of these
2 claims by Mr. Hall, which had not yet run as of the
3 bankruptcy filing petition date by the city in either
4 event -- in the event of either claim was such that under
5 108(c)(2) Mr. Hall was given until 30 days after notice of
6 the termination or expiration of the automatic stay under
7 Section 362 and 922, so the statute of limitations was
8 extended from the dates that I mentioned in each -- with
9 respect to each of these claims to the date that is 30 days
10 after notice of termination of the automatic stay in the
11 bankruptcy case. Section 108(c)(2) extended that -- had the
12 effect of extending or tolling that limitations period for
13 each of these claims to the date that I've described and no
14 further, and I agree with the city that 108(c)(2) is limited
15 in that way. It only tolls and extends the statute of
16 limitations period to the time that that section states and
17 no further.

18 I also agree with the city that based upon the
19 provisions in the city's confirmed plan of adjustment, which
20 became effective and had an effective date of December 10,
21 2014, that the automatic stay under Section 362(a) and the
22 stay under Section 922(a) did terminate with respect to,
23 among other things, Mr. Hall's right and ability to file a
24 complaint on his claims. This is true not only under the
25 terms of the plan, which the city has cited, specifically on

1 page 72 of the confirmed plan, Article 7, subparagraph (k),
2 but also under Section 362(c)(2)(C), which says that the
3 automatic stay under Section 362(a) and also under Section
4 922 expires at the time a discharge is granted. A discharge
5 was granted under the city's confirmed plan on the effective
6 date of the plan, December 10, 2014, and so under all of
7 these provisions, the automatic stay terminated both under
8 Section 362(a) and the stay under Section 922(a) terminated
9 with respect to Mr. Hall's claims and his right to file and
10 ability to file a complaint on December 10, 2014.

11 I also agree with the city in their arguments in
12 their supplemental brief primarily that was filed after the
13 May 27 hearing that Mr. Hall was given sufficient and
14 adequate notice of the termination of the stay and that that
15 notice was served on Mr. Hall by mail on December 16, 2014,
16 which means the 30 days under Section 108(c)(2) after notice
17 of the termination of the stay within the meaning of Section
18 108(c)(2) as to Mr. Hall did run through and expire on
19 Thursday, January 15, 2015, as the city has argued in their
20 supplemental brief.

21 And so as to both of Mr. Hall's claims that are the
22 subject of the city's objection to claim, Mr. Hall had
23 until -- under Section 108(c)(2) had until January 15, 2015,
24 and through that date to file a complaint commencing a
25 lawsuit on each of his claims in an appropriate nonbankruptcy

1 court through no later than January 15, 2015. However, as
2 discussed at some length in today's hearing and also was
3 discussed some in the May 27 hearing and as addressed in the
4 city's supplemental brief filed after the May 27 hearing, the
5 Court has raised a concern and an issue about the fact that
6 at the time the automatic stay terminated such that Mr. Hall
7 for the first time was not prohibited by the automatic stay
8 from filing a complaint to commence the lawsuit on his claims
9 on December 10, 2014, the effective date of the confirmed
10 plan in this case, from that moment forward at all times Mr.
11 Hall was enjoined and prohibited by the discharge injunction
12 provisions in the confirmed plan from filing such a
13 complaint, the discharge injunction being -- in the plan
14 being in page 50, Article 3, subpart (d) (5), so that while
15 the confirmed plan had the effect of terminating -- both by
16 its terms and under Section 362(c) (2) terminated the
17 automatic stay and then ended the tolling period of Section
18 108(c) (2) as to Mr. Hall's claims, at the very same time the
19 plan imposed an injunction prohibiting Mr. Hall from filing a
20 complaint on his claims, and that is the plan enjoined and
21 prohibited Mr. Hall from taking the very action that the city
22 now says Mr. Hall was obligated to take no later than January
23 15, 2015; that is, to file a complaint initiating a lawsuit
24 or lawsuits on his claims against the city.

25 The issue that I want to think a bit more about

1 before I make a ruling on it is whether, given that
2 circumstance, the city is correct that Mr. Hall's claims
3 should -- despite the discharge injunction in the plan
4 should, nonetheless, be disallowed because they are barred by
5 the statute of limitations due to Mr. Hall's failure to file
6 a complaint on his claims on or before January 15, 2015, or
7 whether there is a basis based on the doctrines of estoppel
8 or estoppel like doctrines or equitable tolling or some other
9 equitable basis, common law basis rather than the Bankruptcy
10 Code statutory basis, of which none is apparent to the Court,
11 for the Court to rule that the city may not prevail on its --
12 and does not prevail on its statute of limitations argument,
13 but, rather, Mr. Hall must be given the opportunity and at
14 least a short period of time now to file a complaint or
15 complaints initiating lawsuits on his claims against the city
16 in an appropriate nonbankruptcy court for the purpose of
17 liquidating Mr. Hall's claims. I want to think about those
18 issues a bit more and review the arguments a bit more, think
19 a bit more of the arguments made by the parties, especially
20 by city's counsel in their supplemental brief and in the
21 hearing today, before I make a ruling on that aspect of the
22 objections -- the objection to claim as to Mr. Hall's claims,
23 and so with respect to those issues, I'm reserving ruling at
24 this time, and what I'd like to do is schedule a time for the
25 Court to give a bench opinion -- further bench opinion

1 regarding the objection of the city to the claims of Mr. Hall
2 at which time I'll announce and explain my ruling on the
3 unresolved issues that I've described. I would like to do
4 this -- schedule this for Wednesday, August 5, at 1:30 p.m.
5 Is that a date and time, Mr. Simon, that you can make on your
6 calendar?

7 MR. SIMON: Yes, it is, your Honor.

8 THE COURT: Mr. Hall, any reason that you could not
9 be here at that time to hear me give the rest of my ruling?
10 Mr. Hall?

11 MR. HALL: Yes, sir.

12 THE COURT: If you want to speak, you got to come up
13 and get on the microphone so it's on the record. We need to
14 have you on the record, please.

15 MR. HALL: I have an appointment that day, some type
16 of appointment that day. I think I have an appointment that
17 day. You said August 5th at one o'clock?

18 THE COURT: I said August 5 at 1:30. Is that a --
19 are you saying you can't be here then?

20 MR. HALL: Yeah. I wanted to reschedule. Can
21 you --

22 THE COURT: I'm sorry. What?

23 MR. HALL: No. Can you give me another date or I'm
24 just asking can I --

25 THE COURT: Can you make it later in the afternoon

1 that day, August 5?

2 MR. HALL: How late?

3 THE COURT: Well, two o'clock, 2:30. I'd like to do
4 it that day if possible. That's what I'm saying. I mean you
5 tell me if you can or not.

6 MR. HALL: None sooner, none later? If you can, can
7 you do anything later in the month or something like that or
8 what?

9 THE COURT: No. We're talking about August 5.

10 MR. HALL: That's it?

11 THE COURT: Is there a time on the afternoon of
12 August 5 that you can make it, be here?

13 MR. HALL: Okay. You said 1:30? You said two or
14 three at the latest, you said?

15 THE COURT: Well, I've already got something
16 scheduled for 1:30 that day, August 5, in the City of Detroit
17 case, a bench opinion that I'm --

18 MR. HALL: And I have to be --

19 THE COURT: -- scheduled to give on a different
20 matter, so I could do this after that, two o'clock, 2:30.
21 Can you make -- can you make those times?

22 MR. HALL: You said three? Did I hear you say three
23 before?

24 THE COURT: Just answer my question.

25 MR. HALL: 2:30, three, yeah, later.

1 THE COURT: Pardon me?

2 MR. HALL: Yes, yes. I could make it then.

3 THE COURT: Yes, what?

4 MR. HALL: I'll make it then after your 1:30
5 appointment.

6 THE COURT: Can you make two o'clock, 2:30, what?

7 MR. HALL: 2:30.

8 THE COURT: 2:30? All right. Can we make it 2:30
9 on your schedule, Mr. Simon?

10 MR. SIMON: Yes.

11 THE COURT: All right. Then we'll do it August 5 at
12 2:30 p.m. here, and --

13 MR. HALL: Your Honor --

14 THE COURT: -- we'll see you all at that time.

15 MR. HALL: Your Honor --

16 THE COURT: Yeah.

17 MR. HALL: -- you said you're making a ruling. Am I
18 mandatory to be here? Do I have to --

19 THE COURT: You don't have to be here.

20 MR. HALL: Is it a -- is he asking for --

21 THE COURT: Mr. Hall, you don't have to be here to
22 hear the rest of my ruling. You certainly have a right to be
23 here if you want to be. The ruling -- I anticipate after I
24 make my bench opinion and my ruling, I'll enter an order that
25 reflects that ruling, which will be filed on the docket --

1 the Court's docket, and a copy of that order will be mailed
2 to you probably that day or the day it's entered, and you
3 should be able to know from that order what the outcome is on
4 the city's objection to claim. The order will not have in it
5 a statement of all the reasons behind -- or why the Court
6 ruled the way it did, but it'll say what the ruling is, and,
7 of course, you can always listen to an audio of the hearing.
8 If you have access to PACER and the Court's docket, you can
9 listen to the audio recording of that hearing after it's --
10 after that day because we always post the audio of our
11 hearings on our docket.

12 MR. HALL: I'll just ask can we participate or bring
13 up any other objections or things that might help the ruling
14 or change the ruling or we have no say when we come in or
15 what?

16 THE COURT: I don't know what you're asking me.

17 MR. HALL: I was just asking a ruling came -- are
18 we -- did he ask for any more discovery before that?

19 THE COURT: There's no more rulings, no more
20 briefing --

21 MR. HALL: No discovery?

22 THE COURT: -- no discovery, nothing.

23 MR. HALL: Okay.

24 THE COURT: The only thing we're going to do is I'm
25 going to consider further for a bit the parties' arguments on

1 the issues that are unresolved, and then --

2 MR. HALL: Okay.

3 THE COURT: -- I'm going to come here on August 5 at
4 2:30 in open court and announce my ruling on the remaining
5 issues and explain my reasons for that.

6 MR. HALL: Okay. I'm fine with it.

7 THE COURT: Okay. August 5 at 2:30.

8 MR. HALL: All right.

9 THE COURT: That's it for the objections on the
10 claim of Mr. Hall. Before counsel for the city leave, let me
11 ask you a question -- a housekeeping type question I wanted
12 to ask today, and that is whether I should set aside a date
13 in September and a date in October for claim objection
14 hearings.

15 MS. DOLCOURT: Yes, your Honor. We were going to
16 talk to you at the August hearing about that, but we would
17 like to do that, so, yeah, if we can do it now --

18 THE COURT: Well, I already have one thing at least
19 scheduled in September on September 16 at 1:30.

20 MS. DOLCOURT: So we could do --

21 THE COURT: Is that a date in September that works
22 for you?

23 MS. DOLCOURT: Yes, I believe so.

24 THE COURT: Okay. So we'll make the September
25 objection to claim hearing date September 16 at 1:30, and

1 then what date would you like in October?

2 MS. DOLCOURT: Your Honor, I'd suggest something
3 like October 28th, which is the last Wednesday of the month.

4 THE COURT: One second. I can do that.

5 MS. DOLCOURT: Okay. At 1:30 as well?

6 THE COURT: All right. Okay. So we'll set --
7 you'll see those added to the list of available claim
8 objection hearing dates on the Court's website. All right.
9 So thank you for that, and --

10 MS. DOLCOURT: Thank you.

11 THE COURT: -- we'll see you all next time. Thank
12 you.

13 MS. DOLCOURT: Thank you, your Honor.

14 MR. SIMON: Thank you, your Honor.

15 THE CLERK: All rise. Court is adjourned.

16 (Proceedings concluded at 2:53 p.m.)

INDEX

WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett

July 29, 2015

Lois Garrett